



Order Filed on April 24, 2019 by
Clerk U.S. Bankruptcy Court
District of New Jersey

**IN THE UNITED STATES BANKRUPTCY
COURT FOR THE DISTRICT OF NEW JERSEY**
Caption in compliance with D.N.J. LBR 9004-1

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In Re:

NEW ENGLAND MOTOR FREIGHT, INC. *et al*¹.

Debtors.

Case Number: 19-12809-JKS

Chapter 11

Jointly Administered

**STIPULATION AND CONSENT ORDER REGARDING THE RETURN AND
OWNERSHIP OF TWO PROTOTYPE VEHICLES IN THE DEBTOR'S POSSESSION**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby
ORDERED.

DATED: April 24, 2019

A handwritten signature in black ink, appearing to read "J K Sherwood", is written over a horizontal line.

Honorable John K. Sherwood
United States Bankruptcy Court

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows:
New England Motor Freight, Inc. (7697); Eastern Freight Ways, Inc. (3461); NEMF World Transport, Inc. (2777); Apex
Logistics, Inc. (5347); Jans Leasing Corp. (9009); Carrier Industries, Inc. (9223); Myar, LLC (4357); MyJon, LLC (7305);
Hollywood Avenue Solar, LLC (2206); United Express Solar, LLC (1126); and NEMF Logistics, LLC (4666).

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This Stipulation and Consent Order (the “Stipulation”) is entered into by and between the Debtor and Debtor-in-Possession New England Motor Freight, Inc. (the “Debtor”) and Mack Trucks, Inc. (“Mack Trucks,” and with the Debtor, the “Parties”). The Parties hereby stipulate as follows:

RECITALS

WHEREAS, on or about August 8, 2017, Mack Trucks and the Debtor entered into a lease agreement (the “Lease Agreement”) with respect to the testing and evaluation of two prototype vehicles; specifically, two 2018 Mack Trucks, Model Numbers CXU613, bearing serial numbers 1M1AW09Y5JM087237 and 1M1AW09Y7JM087238 (the “Prototype Vehicles”); and

WHEREAS, the term of the lease was for twelve months, expiring on or about August 7, 2018; and

WHEREAS, the Lease Agreement provided that title and ownership of the Prototype Vehicles were to remain at all times with Mack Trucks, notwithstanding the use of the Prototype Vehicles by the Debtor; and

WHEREAS, the Lease Agreement provided that the Debtor would be responsible for certain costs and damage incurred by the operation of the Prototype Vehicles; and

WHEREAS, the Lease Agreement provides that upon the expiration of the Lease Agreement, the Debtor was to have returned the Prototype Vehicles to the location(s) designated by Mack Trucks in good repair and operating condition, reasonable wear and tear excepted; and

WHEREAS, on or about July 24, 2017, Mack Trucks had executed an authorization and power of attorney (the “POA”) in favor of the Debtor for the limited purpose of processing vehicle titling and registration with the New Jersey Department of Motor Vehicles Registration

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System with respect to the Prototype Vehicles and whereby the original titles were to be mailed to Mack Trucks; and

WHEREAS, upon information and belief, for purposes of obtaining certain permits, the Debtor registered and titled the ownership of the Prototype Vehicles in its own name and failed to mail the original titles to Mack Trucks; and

WHEREAS, the Debtor acknowledges that it is not the legal or equitable owner of the Prototype Vehicles; and

WHEREAS, the Debtor acknowledges that the term of the Lease Agreement has expired by its terms; and

WHEREAS, the Debtor acknowledges that pursuant to the Lease Agreement the Prototype Vehicles should be returned to Mack Trucks; and

WHEREAS, the Debtor acknowledges that the keys to the Prototype Vehicles, certificates of title and other pertinent operation documents should be delivered to Mack Trucks; and

WHEREAS, the Debtor acknowledges that the original certificates of title to the Prototype Vehicles are to be endorsed over to Mack Trucks (or to a designee specified by Mack Trucks) and are to be delivered to Mack Trucks; and

WHEREAS, the Parties acknowledge that upon due return and receipt of the Prototype Vehicles, keys, reasonably pertinent operation documents and duly endorsed original certificates of title; Mack Trucks shall release the Debtor from all liability under the Lease Agreement.

NOW, THEREFORE, the Parties hereby agree, stipulate, and consent, and it is hereby **ORDERED** as follows:

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1. The Debtors have no legal or equitable ownership interest in the Prototype Vehicles, such that Mack Trucks need not seek relief from the automatic stay pursuant to 11 U.S.C. § 362(a) with respect to the relief provided herein.
2. At a reasonable mutually convenient time and place, which shall be as soon as reasonably possible (the "Transfer Date"), the Debtor shall make available and turn over and deliver to Mack Trucks, the Prototype Vehicles, in good repair and operating condition, reasonable wear and tear excepted, and Mack Trucks may take possession of the Prototype Vehicles at that time.
3. On the Transfer Date, the Debtor shall make available and turn over and deliver to Mack Trucks, the keys to the Prototype Vehicles and all corresponding operating documentation, if any, reasonably demanded by Mack Trucks.
4. On or before the Transfer Date, the Debtor shall deliver to Mack Trucks the original certificates of title to the Prototype Vehicles, and such certificates of title shall endorse ownership to Mack Trucks, or its designee.
5. Upon due possession and receipt of the Prototype Vehicles in good repair and operating condition, reasonable wear and tear excepted, keys, reasonably pertinent operating documents, if any, and duly endorsed original certificates of title, Mack Trucks shall be deemed to have released the Debtor from all liability under the Lease Agreement.
6. Any stay imposed by Bankruptcy Rule 6004(h) is hereby waived and this Order shall be immediately effective and enforceable.
7. This Stipulation and Consent Order shall be effective immediately upon its entry.

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Based on the foregoing findings and Stipulation, it is therefore

STIPULATED, AGREED, AND CONSENTED TO BY:

/s/ Mark B. Conlan

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